THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.12455 OF 1999

DATED: 12-09-2007

BETWEEN

Peddi Sammaiah,
S/o. Kistaiah,
Occ: Agriculture,
R/o. Tandur Village & Mandal,
Adilabad District.

...PETITIONER

AND

The Mandal Revenue Officer,
Tandur Mandal, Adilabad District.

...RESPONDENT

ORDER:

Petitioner questions the order of the Mandal Revenue Officer, Tandur Mandal, Adilabad District, dated 10.06.1999 made in proceedings No.B/639/97 resuming the land assigned in his favour in an extent of Ac.2.75 cents in Sy.No.173/3 situated at Kothapally village, Tandur Mandal, on the ground that he has sold an extent of 0.04 guntas of land in favour of Abdul Saleem, S/o. Shaik Chand,
by making plots and also sold the remaining area out of the assigned land in favour of Gram Panchayat, Kothapally for Rs.10,000/- on 29.11.1997 by executing ordinary registered document and hence,
he violated the provisions of Section 3(1) and (2) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act').

2. Learned counsel for the petitioner submits that the said lands were

assigned in favour of the petitioner by the Tahsildar, Asifabad vide proceedings No.B6/773/68 dated 07.04.1972 and thereafter the said village of Kothapally has fallen in the Tandur Mandal and the MRO, Tandur, vide proceedings No.B/639/1997 dated 24.03.1998 resumed the said lands to the Government custody for breach of conditions of grant on the ground that the petitioner has not brought the said lands under cultivation. The petitioner questioned the said order before the Joint Collector, Adilabad and the appellate authority vide proceedings No.B1/1987/1998 dated 10.10.1998 allowed the appeal on the ground that no encumbrance has been created by the petitioner and the allegation that the petitioner has not brought the said land under cultivation and that he has made plots in the said land have not been proved.

3. It is stated that having passed resumption orders earlier, which have been set aside by the Joint Collector by order dated 10.10.1998, it is not open to the respondent to issue a show cause notice dated 25.05.1999 and pass impugned resumption orders on 10.06.1999.

It is further stated that against the show cause notice the petitioner filed W.P.No.10802 of 1999 and this Court granted interim stay of operation of the said notice by order dated 09.06.1999, in spite of the said order the respondent has passed impugned order on 10.06.1999.

4. I am of the opinion that the aforesaid orders of this Court dated 09.06.1999 might not have been communicated to the respondent, therefore, the impugned order has been passed on 10.06.1999, on the very next of the order passed by this Court on 09.06.1999. Therefore, it cannot be said that the impugned order is illegal and contrary to the directions of this Court. In fact, W.P.No.10802 of 1999 was disposed of by this Court by order dated 09.07.2007 observing that the present resumption order has been passed on different grounds than those on which the earlier resumption order had been passed, therefore,

it cannot be said that the impugned show cause notice is illegal and

unsustainable. Accordingly, the petitioner was directed to file an explanation to the show cause notice dated 25.05.1999 and the respondent was directed to pass appropriate orders in accordance with law.

5. It appears that the petitioner has not brought to the notice of the learned Judge about the pendency of this writ petition, therefore, the said order has been passed directing the petitioner to submit an explanation. In fact, a perusal of the impugned order goes to show that the petitioner submitted his explanation on 05.06.1999 and the explanation has been considered and then only, the final order has been passed. Either the passing of the final order or pendency of this writ petition has not been brought to the notice of the learned Judge in W.P.No.10802 of 1999. However, I am of the opinion that there is an appeal provided against the impugned order.

The writ petition is accordingly dismissed with a liberty to the petitioner to file an appeal before the appellate authority under Section 4-A(1) of the Act within one week from the date of receipt of a copy of this order. There shall be no order as to costs.

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V. ESWARAIAH, J

September 12, 2007
DSK